

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

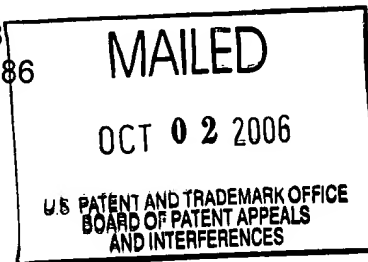
UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte Daryl L. Champagne and Don G. Bartkowiak

Appeal No. 2006-1278
Application No. 09/543,686

ON BRIEF



Before RUGGIERO, BARRY, and BLANKENSHIP, *Administrative Patent Judges*.
BARRY, *Administrative Patent Judge*.

A patent examiner rejected claims 1-44. The appellants appeal therefrom under 35 U.S.C. § 134(a). We remand.

In an *ex parte* appeal, "the Board is basically a board of review — we review . . . rejections made by patent examiners." *Ex parte Gambogi*, 62 USPQ2d 1209, 1211 (Bd.Pat.App. & Int. 2001). Here, after considering the record, we are persuaded that "[t]he appeal is manifestly not ready for a decision on the merits." *Ex parte Braeken*, 54 USPQ2d 1110, 1112 (Bd.Pat.App. & Int. 1999).

"On the examiner's answer, below the primary examiner's signature, the word 'Conferees:' should be included, followed by the typed or printed names of the other two

appeal conference participants. **These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.**" M.P.E.P. § 1208 (8th ed., rev. 2, May 2004)¹ (emphasis added)). Here, although the examiner's answer includes the names of two appeal conference participants, it omits their initials.

The omission of the participants' initials make it unclear whether an appeal conference has been held. We decline to substitute speculation as to the matter for the greater certainty that should come from the examiner in having the conferees place their initials next to their names. Instead, we remand the application to the examiner to obtain these initials.

Any subsequent examiner's answer should be self-contained with respect to all rejections and arguments; no prior answer or Office action should be referenced or incorporated therein. Similarly, any subsequent brief submitted by the appellants should be self-contained with respect to all arguments. No prior brief should be referenced or incorporated therein.

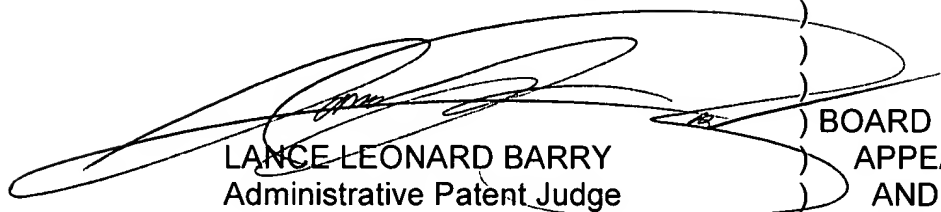
¹We cite to the version of the M.P.E.P. in effect at the time of the examiners' answer. The same requirements for initials are found in § 1207 of the current version of the M.P.E.P.

Because it is being remanded for further action, the application is a "special" application. M.P.E.P. § 708.01(D). Accordingly, it requires immediate action. Furthermore, the Board should be informed promptly of any action affecting status of the appeal (e.g., abandonment, issue, reopening prosecution).

REMANDED



JOSEPH F. RUGGIERO
Administrative Patent Judge



LANCE LEONARD BARRY
Administrative Patent Judge

) BOARD OF PATENT
) APPEALS
) AND
) INTERFERENCES



HOWARD B. BLANKENSHIP
Administrative Patent Judge

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